

THE HARMAN FIRM, PC

ATTORNEYS & COUNSELORS AT LAW

200 WEST 57th STREET, SUITE 900, NEW YORK, NEW YORK 10019
TELEPHONE 212 425 2600 FAX 212 202 3926
WWW.THEHARMANFIRM.COM

November 7, 2013

VIA ECF

Hon. Sarah Netburn
Thurgood Marshall Courthouse
40 Foley Square, Room 430
New York, New York 10007

**Re: *At Last Sportswear v. Kamens,*
13 CV 2355 (WHP)(SN)**

Dear Judge Netburn:

We represent Defendant and Third-Party Plaintiff Michael Kamens in the above-referenced matter. It is our understanding that Your Honor has been designated to serve as the Magistrate Judge regarding discovery issues in this action.

We respectfully seek the Court's guidance regarding discovery issues in this matter but Plaintiff's counsel is completely absent and unable to assist and Third-Party Defendants' counsel is available but refuses to assist.

Our problems stem from two (2) primary sources. Third-Party Defendants' counsel, Diane Windholz of Jackson Lewis LLP has (i) refused to describe the purported six (6) boxes of responsive production that they have; and (ii) refuses to complete compliance with FED. R. CIV. P. 26(a)(1)(A)(iv).

Regarding Third-Party Defendants' (and Plaintiff's) breach of Rule 26, we underscore that we were served just part of the "General Terms and Conditions" of their insurance policy, which were not only served weeks late and after much prodding, but did not even include the Declarations pages. Third-Party Defendants' counsel Diane Windholz, Esq. seeks only to further harass Mr. Kamens by omitting key information regarding her interest in the case *vis-à-vis* her refusal to allow Mr. Kamens to be heard by a jury.

In accordance with Rule II(b) of this Court's Individual Practices in Civil Cases and with L. Civ. R. 37.2, we have met and conferred with opposing counsel regarding the issues raised in this letter on many occasions over the past few weeks. It has thereby been made clear to us that a joint letter cannot be developed. We therefore request a conference with the Court as soon as the Parties may be seen.

Hon. Sarah Netburn
November 7, 2013
Page 2 of 2

This matter is time sensitive because discovery closes November 15, 2013, and a number of very important and serious discovery disputes have arisen within the past three (3) weeks, which the parties have not been able to resolve.

We thank the Court for its time and attention to this matter.

Respectfully submitted,
THE HARMAN FIRM, PC

s/
Walker G. Harman, Jr.

cc: Diane Windholz, Esq. (via ECF)
Peter J. Andrews, Esq. (via ECF)
Orla J. McCabe, Esq. (via ECF)